IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.242 OF 2003

1. Shri T. Swami Ayyappa,
   S/o T. Nageshwar Rao,
   H.No.2-4-98,
   Dabala Bazaar, Khammam,
   Andhra Pradesh.

2. Shri K. Vijay Kumar,
   S/o K. Rama Rao,
   Residing at H.No.3-22,
   Konijerla, District
   Khammam, Andhra Pradesh.

3. Shri K. Brahmaiah,
   S/o Shri Sheshiah,
   Residing at Koyachilaka(Post),
   Khammam Urban,
   District Khamman,
   Andhra Pradesh.

4. Shri Volam Buchi Rajam,
   S/o Shri Venkataiah,
   Residing at Mahabubabad,
   District Warangal,
   Andhra Pradesh.

5. Shri Dupakuntla Ramabadram,
   S/o Shri Nagabushanam,
   Residing at Venkateshwara
   Agencies, S. Mallesam
   Gupta Street,
   Sattupally-507 003,
   District Khamman,
   Andhra Pradesh.

6. Shri Kallem Venkata Reddy,
   S/o Daidi Reddy,
   Resident of Gollapadu(Post)
   Khamman Rural Mandal,
   District Khammam,
   Andhra Pradesh.

7. Shri D. Rajeswara Rao,
   S/o late Raghavaiah,
   Residing at Tatipudi,
   Wyra Mandal,
   Khammam District,
   Andhra Pradesh.

8. Smt. Siripuram Swarna,
   W/o Siripuram Sudheer,
   Resident of H.No.3-195,
   Gandhinagar, Sultanabad,
   District Karimnagar,
   505 185.

9. Komaravelli Ramulu,
   F/o Komaravelli Srinivas,
   Resident of H.No.3-145,
   Main Road, Sultanabad,
   District Karimnagar-505 185. ... Petitioners.

versus

1. State of Goa,
   through its Chief Secretary,
   having his Office at
   Secretariat, Panaji, Goa.

2. Director of Tourism,
   Government of Goa,
   Patto Plaza,
   Panaji, Goa.

3. Captain of Ports,
   Government of Goa,
   Captain of Ports Building,
   Panaji, Goa.

4. Anthony Ramos
   S/o Sebastian Ramos,
   H.No.156-E/7,
   Santawado, Calangute, Goa.

5. Cosme Corrosco,
   S/o Domnic Corrosco,
   Santawado, Calangute, Goa. ... Respondents.

Mr. S. N. Joshi, Advocate for the Petitioners.

Mr. A. N. S. Nadkarni, Advocate General with Miss Sabnis,
Additional Government Advocate for Respondent Nos.1 to 3.

CORAM: F. I. REBELLO &
P. V. HARDAS, JJ.

DATED: 9TH JULY, 2003.

ORAL JUDGMENT(PER F.I.REBELLO, J.)

Rule. Respondents waive service. Heard forthwith.

2. An incident took place on 15th April, 2003, on the high seas at Baga, wherein tourists who had engaged a boat met with a tragic accident on account of the boat capsizing and several lost their lives. It is the contention of the Petitioners that Goa being a tourist place, the Respondents are duty bound to provide assistence and arrangements for the safety of the tourists and for their security when they are visiting Goa. It is further contended that presently various trades specially water sports are unlicenced. The boat owners or others involved in water sports do not have a licence and in the event like the incident in the present one, the families of the deceased are left without any protection.

3. In the present Petition, the Petitioners have prayed for two reliefs. The first relief in terms of prayer clause (a) is to conduct a Judicial Inquiry into the cause of the accident and fixation of individual responsibility against the concerned Government Officers and to initiate necessary action against them for dereliction of their duties. We are not inclined on the facts before us to conduct a Judicial Inquiry. Neither

does this Court have Judicial Officers to spare for such an appointment on the facts of the present case, and as things stand need this Court spare a Member of its Judicial work force.

Relief (b) is for a direction that the Government shall frame necessary guidelines and to ensure the safety of the tourists. On behalf of the State Government, an Order containing guidelines dated June 23, 2003, has been notified. Earlier, by an Order of December 28, 2002, the Director of Tourism in exercise of his powers under Section 5 of the Goa Tourist Places(Protection and Maintenance) Act, 2001, had ordered that no water sports activities will be carried out at the main Calangute beach specifically within 200 metres distance on either side of the Calangute Residency.

Pursuant to further directions, N. Suryanarayana, Director of Tourism has filed an Affidavit on 7th July, 2003. In the said Affidavit, it is pointed out that a Committee has been constituted on 24th June, 2003, for the purpose of identifying the places on the sea-shore for tourists related activities, in so far as boats and other water sports activities can be carried out. As the monsoon period is on, they would require at least three months to identify the coastal

areas condusive for carrying and notifying the same.

4. From the above, we are satisfied that the Respondents have now taken steps to protect the tourists who may be coming to take advantage of water sports activities. In the light of that, the following directions:-

1. Till such time as Rules are notified and under the provisions of the Goa Tourist Place(Protection and Maintenance) Act, 2001, the guidelines issued on June 23, 2003 and which are at Exh.'B' to the Affidavit of the Director of Tourism, will be strictly implemented. All persons interested in carrying out tourists related activities will be bound to comply with the said guidelines.

2. The Respondents are directed not to permit any person intending to carry out water related activities and covered by the said guidelines from carrying out such water related activities without first obtaining permission in terms of the said guidelines.

3. The Respondents have framed the fees to be charged. At the present, we are not concerned with the fixation of the said fees. However, it is open to the persons concerned to make representations if, they find it on the higher side. It is for the Respondents to see and dispose of the representations, if any, at any rate on or before 30th October, 2003.

4. On or before 30th October, 2003, the Respondents are directed to identify the areas where water sports activities can be carried on and notify the same. All water sports related activities along the sea-shore or inland waterways will be confined only to such areas as notified by the Committee appointed by the Respondents.

5. In the event any operator wishes to carry out activities at a place other than those which the Committee may finalise, liberty is given to them to file their representation before the Committee, whereupon the same shall be decided within 30 days of such application.

6. In order that these guidelines are given effect to at least before 30th October, 2003, the Respondents to advertise/publish these directions along with the guidelines so that the Committee can complete the work expeditiously.

5. The Petitioners though no specific relief had been asked, were also seeking compensation. However, it will not be possible for this Court to grant any compensation, considering the facts and circumstances. It will be open to the Petitioners to take appropriate proceedings in the Civil Court if in law they are so entitled to.

6. In the aforesaid directions Rule made partly absolute in terms of paragraph 4. In the circumstances there shall be no order as to costs.

F. I. REBELLO, J.

P. V. HARDAS, J.

RD.